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Supreme Court, U.S.
FILED
AUG 3 0 2004
OFFICE OF THE CLERK

NO 03-1624

In The

Supreme Court of the United States

Linda-Ann: Heldt;
Special Appearance in propia persona
Petitioner
Co-petitioner United States

vs.

MICHIGAN, STATE OF MICHIGAN;
GOVERNOR; JENNIFER GRANHOLM;
MICHAEL A. COX, ATTORNEY GENERAL,
Wendy L. Potts, Julie A. Nicholson,
and The State Bar Of Michigan;
Respondents
UNITED STATES DEPARTMENT OF JUSTICE;
ATTORNEY GENERAL OF THE UNITED STATES;
JOHN ASHCROFT, United States Attorney General,
The Supreme Court of the United States
Intervenors

SUPPLEMENTAL BRIEF
for the
PETITIONER LINDA-ANN: HELDT;

Linda-Ann: Heldt;
c/o 7706 Granite;
Washington-township; Michigan state; [48094]
Petitioner
1-(586) 781-3361

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Now comes Linda-Ann: Heldt; petitioner and moves by and through this supplemental brief pursuant Rule 15 of the Rules of the Supreme Court.

Petitioner, raises the new points in a most recent case before this court in the matter of **Hamdi v. Donald Rumsfeld Secretary of Defense No. 03-6696 decided June 28, 2004**, the lead opinion of the court was delivered by Justice O'Connor.

The opinion of the court in which the Chief Justice, Justice Kennedy, and Justice Breyer join is in support of the facts and legal issues raised by Linda-Ann: Heldt;'s; petition in her writ of certiorari that she complained of the treatment by State of Michigan Judges Wendy L. Potts, Julie A. Nicholson in her state of Michigan trial under the Military Flag of the United States of America and the Military Flag of the State of Michigan and the Military State of Michigan that was taken against her in the Military Courts of the State of Michigan; particularly that of being brought before a Military Court, being detained without a damaged party and a denial of her first choice of assistance of counsel before a Military Tribunal of the State of Michigan that is not an impartial tribunal.

Linda-Ann: Heldt; petitioner has a reliance defense on the Hamdi case that runs parallel with her cause of action for review.

The court held Hamdi's right of assistance of counsel

was violated and the fifth and fourteenth Amendment of the Constitution of the United States of America were violated and that the Bill of Rights holds the government to the action that may be taken against American Citizen on United States soil as this is the argument raised in Linda-Ann: Heldt;'s; case.

Most important is that of Justice Scalia - - Moreover, as JUSTICE SCALIA acknowledges, the Court ***in Ex parte Quirin*, 317 U.S. 1 (1942)**, dismissed the language of *Milligan* that the petitioners had suggested prevented them from being subject to military process. *Post*, at 17-18 (dissenting opinion). Clear in this rejection was a disavowal of the New York State cases cited in *Milligan*, 4 Wall., at 128-129, on which JUSTICE SCALIA relies. *See id.*, at 128-129. **Both *Smith v. Shaw*, 12 Johns *257 (N.Y. 1815), *and M'Connell v. Hampton*, 12 Johns *234 (N.Y. 1815)**, were civil suits for false imprisonment. Even accepting that these cases once could have been viewed as standing for the sweeping proposition for which JUSTICE SCALIA cites them — that the military does not have authority to try an American citizen accused of spying against his country during wartime — ***Quirin*** makes undeniably clear that this is not the law today. Haupt, like the citizens in *Smith* and *M'Connell*, was accused by being a spy. The court in *Quirin* found him "subject to trial and punishment by [a] military tribunal[ ]" for those facts, and held that his

citizenship did not change this result. **317 U.S., at 31, 27-28.** ***Quirin*** was a unanimous opinion. **It both post dates and clarifies Milligan, providing us with the most apposite precedent that we have on the questions of whether citizens may be detained in such circumstances**. Brushing aside such precedent --- particularly when doing so gives rise to a host of new questions never dealt with by this Court --- is unjustified and unwise.

The court again at 22 *Hamdi v. Rumsfeld* Opinion of O'Connor, J. --- "without due process of law," U. S. Const., Amdt. 5, is the test that we articulated ***in Mathews v. Eldridge*, 424 U. S. 319 (1976)**. See, e.g., ***Heller v. Doe*, 509 U. S. 312, 330–331 (1993)**; ***Zinermon v. Burch*, 494 U. S. 113, 127–128 (1990)**; ***United States v. Salerno*, 481 U. S. 739, 746 (1987)**; ***Schall v. Martin*, 467 U. S. 253, 274–275 (1984)**; ***Addington v. Texas*, supra, at 425**. *Mathews* dictates that the process due in any given instance is determined by weighing "the private interest that will be affected by the official action" against the Government's asserted interest, "including the function involved" and the burdens the Government would face in providing greater process. **424 U. S., at 335**. The *Mathews* calculus then contemplates a judicious balancing of these concerns, through an analysis of "the risk of an erroneous

deprivation" of the private interest if the process were reduced and the "probable value, if any, of additional or substitute safeguards." *Ibid.* We take each of these steps in turn."

"It is beyond question that substantial interests lie on both sides of the scale in this case. Hamdi's "**private interest . . .** affected by the official action," *ibid.*, is the most **elemental of liberty interests — the interest in being free from physical detention by one's own government.** ***Foucha v. Louisiana*, 504 U. S. 71, 80 (1992)** ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action"); see **also** ***Parham v. J. R.*, 442 U. S. 584, 600 (1979)** (noting the "substantial liberty interest in not being confined unnecessarily"). "In our society liberty is the norm," and detention without trial "is the carefully limited exception." ***Salerno, supra*, at 755.** "We have always been careful not to 'minimize **the importance and fundamental nature' of the individual's right to liberty,"** ***Foucha, supra*, at 80 (quoting *Salerno, supra*, at 750), and we will not do so today.**

The court again at 3 Scalia, J., dissenting in part - - - The gist of the Due Process Clause, as understood at the founding and since, was to force the Government to follow those common-law procedures traditionally deemed necessary

before depriving a person of life, liberty, or property. When a citizen was deprived of liberty because of alleged criminal conduct, those procedures typically required committal by a magistrate followed by indictment and trial. See, *e.g., 2 & 3 Phil. & M., c. 10 (1555); 3 J. Story, Commentaries on the Constitution of the United States §1783, p. 661 (1833)* (hereinafter Story) (equating "due process of law" with "due presentment or indictment, and being brought in to answer thereto by due process of the common law"). **The Due Process Clause "in effect affirms the right of trial according to the process and proceedings of the common law."** ***Ibid.*** **See also** ***T. Cooley, General Principles of Constitutional Law 224 (1880)*** **("When life and liberty are in question, there must in every instance be judicial proceedings; and that requirement implies an accusation, a hearing before an impartial tribunal, with proper jurisdiction, and a conviction and judgment before the punishment can be inflicted" (internal quotation marks omitted)).**

15 Scalia, J., dissenting --- *Milligan* is not exactly this case, of course, since the petitioner was threatened with death, not merely imprisonment. But the reasoning and conclusion of *Milligan* logically cover the present case. The Government justifies imprisonment of Hamdi on principles of the law of war

and admits that, absent the war, it would have no such authority. **But if the law of war cannot be applied to citizens where courts are open, then Hamdi's imprisonment without criminal trial is no less unlawful than Milligan's trial by military tribunal.**

The court 20 **Hamdi Rumsfeld**, Scalia, J., dissenting ---

[4]The plurality's assertion that *Quirin* somehow "clarifies" **Milligan, ante, at 15**, is simply false. As I discuss *supra*, at 17–19, the *Quirin* Court propounded a mistaken understanding of *Milligan*; but nonetheless its holding was limited to "the case presented by the present record," and *to "the conceded facts*," and thus avoided conflict with the earlier case. **See 317 U. S., at 45–46** (emphasis added). The plurality, ignoring this expressed limitation, thinks it "beside the point" whether belligerency is conceded or found "by some other process" (not necessarily a jury trial) "that verifies this fact with sufficient certainty." *Ante*, at 16. **But the whole point of the procedural guarantees in the Bill of Rights is to limit the methods by which the Government can determine facts that the citizen disputes and on which the citizen's liberty depends**. The plurality's claim that *Quirin's* one-paragraph discussion of *Milligan* provides a "[c]lear . . . disavowal" of two false imprisonment cases from the War of 1812, *ante*, at

15, thus defies logic; unlike the plaintiffs in those cases, Haupt was concededly a member of an enemy force.

Conclusion

Wherefore, in the people of the State of Michigan v. Linda-Ann: Heldt; **First) judges Wendy L. Potts, Julia A. Nicholson** denied me (Linda-Ann: Heldt;) right of assistance of counsel of my choice; **Second)** the State of Michigan did not weigh the interest of American Citizen Linda-Ann: Heldt; over the interest of the People of the State of Michigan; **Third)** the alleged damaged parties, the arresting officer, the complainant, Eugene Carter is not a damaged party. This action is by statute violation of a resolution signed by the Governor of the State of Michigan, that is not the law of the land, presented without the seal of the United States with a judicial clearance by the three-judge-court in the district court of the united states for the district of Columbia. See **28 U.S.C. 1738**; **Fourth)** the complainant, Eugene Carter is part of the Michigan Military Police Force is **MCL 32.503** military laws, the complainant, Eugene Carter is a Deputy Sheriff of Oakland County holding the same rank as a Military Officer in the armed forces of the United States military; **Fifth)** pursuant **MCL 32.655** the military police force is activated in case of war - - - see section 255, that is not the case. Further, this action was taken under

the coat of arms of Michigan in the 52-3 District Court and the Sixth Judicial Court of Oakland County State of Michigan. See **MCL 32.710**; **Sixth)** this court has expressed its concern of the punishment of Private Citizen under military law and this is also my concern as a private Citizen on United States Soil of this military prosecution by statute violation without a damaged party as fully argued in my writ of certiorari before this Supreme Court of the United States.

Wherefore, Petitioner, Linda-Ann: Heldt; respectfully requests the Justices of this court on consideration of my writ of certiorari consider this supplemental brief in support and the points of law and authorities raised in the **Hamdi v. Donald Rumsfeld Secretary of Defense case No. 03-6696.**

In my case, the People of the State of Michigan in error failed to present a violation of the laws and/or a violation of the Constitution of the United States of America.

Respectfully submitted,

Dated: Aug 24, 2004 Linda-Ann: Heldt;

Linda-Ann: Heldt;
an American Citizen